

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Dianne Michele Carter El-Bey, *aka*)
D'ori Me'ira El-Bey,)
Plaintiff,)
vs.)
ML Wilson; CJ Neeland; CD Dover;)
CS Salvage Inc *d/b/a A+ Garage & Towing*;)
J Corsey Bentley; Rachel Anne Fiesta)
Fleming; Herman Melvin Howell;)
Clover Police Department; York County)
Sheriffs Office; and Bruce M. Bryant,)
Defendants.)

Case No. 0:14-cv-00513-TLW

ORDER

Plaintiff Dianne Michele Carter El-Bey, proceeding pro se and in forma pauperis, brought this action alleging constitutional violations and state law causes of action in relation to her arrest and detention in February 2011. (Doc. #13). Plaintiff names as defendants the Clover Police Department; M.L. Wilson, C.J. Neeland, and C.D. Dover, all officers with the Clover Police Department; C.S. Salvage, Inc. d/b/a A+ Garage & Towing; J. Corsey Bentley, the owner of A+ Garage & Towing; Rachel Anne Fiesta Fleming and Herman Melvin Howell, both South Carolina state court judges; the York County Sheriff's Office; and Bruce M. Bryant, the York County Sheriff.

This matter is now before the Court for review of two Reports and Recommendations (the “Reports”) filed by United States Magistrate Judge Shiva V. Hodges, to whom this case was assigned pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e), (D.S.C.). In the first Report, issued on April 24, 2014, the Magistrate Judge recommends that this Court dismiss

the Amended Complaint without prejudice and without issuance and service of process as to Defendants Fleming and Howell. (Doc. #16). Plaintiff filed timely objections to the Report on May 12, 2014. (Doc. #21). On July 29, 2014, Defendants Clover Police Department, Dover, Neeland, and Wilson filed a motion for summary judgment. (Doc. #32). Plaintiff's response was due by September 5, 2014, but she failed to respond. On September 8, 2014, Defendants Bentley and C.S. Salvage, Inc. filed a motion to dismiss and for summary judgment. (Doc. #35). On September 9, 2014, the Magistrate Judge issued an Order directing Plaintiff to advise the Court whether she wishes to continue with the case and to file a response to Defendant Clover Police Department's motion for summary judgment by September 23, 2014. (Doc. #38). The Magistrate Judge further noted that Plaintiff's response to Defendant Bentley's motion to dismiss and for summary judgment was due by October 14, 2014, and that if Plaintiff failed to respond to the motions, the Court would assume that she wishes to abandon her case against all defendants. Id. Plaintiff did not respond to either motion.

In the Magistrate Judge's second Report, filed on October 8, 2014, she recommends dismissing this action with prejudice for failure to prosecute based on Plaintiff's failure to respond to the two motions and failure to comply with the Court's September 9 Order. (Doc. #40). Plaintiff's objections to the second Report were due by October 27, 2014. Plaintiff failed to file objections, and this matter is now ripe for review.

The Court finds that the filing of the second Report has rendered the first Report moot. The Court is charged with conducting a de novo review of any portion of the second Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained therein. 28 U.S.C. § 636. However, in the absence of objections to the Report, the Court is not required to give any explanation for adopting the Magistrate

Judge's recommendation. See Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, "a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

In light of this standard, the Court has carefully reviewed the second Report, and it concludes that the Magistrate Judge accurately summarizes the case and the applicable law. It is therefore **ORDERED** that the Magistrate Judge's October 8, 2014 Report and Recommendation is **ACCEPTED**. (Doc. #40). For the reasons articulated by the Magistrate Judge, this case is **DISMISSED** with prejudice as to all Defendants for failure to prosecute.

The matters addressed in the Magistrate Judge's April 24, 2014 Report and Recommendation are now **MOOT**. (Doc. #16). The motion for summary judgment filed by the Clover Police Department, C.D. Dover, C.J. Neeland, and M.L. Wilson (Doc. #32) and the motion to dismiss and for summary judgment filed by J. Corsey Bentley and C.S. Salvage, Inc. (Doc. #35) are hereby **DENIED** as **MOOT**.

IT IS SO ORDERED.

s/Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

October 29, 2014
Columbia, South Carolina